IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No.10646 of 2007

For Approval and Signature:
HONOURABLE MR.JUSTICE D.A.MEHTA Sd/-

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1	Whether Reporters of Local Papers may be allowed to see the judgment ?	**NO**
2	To be referred to the Reporter or not ?	**NO**
3	Whether their Lordships wish to see the fair copy of the judgment ?	**NO**
4	Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?	**NO**
5	Whether it is to be circulated to the civil judge ?	**NO**

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SACHIN NATWARBHAI PRAJAPATI - Petitioner(s)
Versus
STATE OF GUJAART THRO; & 1 - Respondent(s)

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Appearance :
MR.DIPAK B PATEL for Petitioner(s) : 1,
MR SHIVANG SHUKLA, AGP for Respondent(s) : 1,
NOTICE SERVED for Respondent(s) : 2.

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CORAM : HONOURABLE MR.JUSTICE D.A.MEHTA
Date : 17/07/2007

ORAL JUDGMENT

(1) RULE. Learned Assistant Government Pleader is directed to waive service on behalf of the respondent authority. None is present on behalf of respondent No.2. The petition is taken up for final hearing and disposal today taking into consideration the short point

involved.

(2) It appears that the petitioner, a student, secured admission in ATD Course in respondent No.2-College and cleared the First Year of the course by passing the foundation examination held in 2002-2003. The petitioner could not appear at the examination for the Second Year due to financial and some other social problems and hence, the petitioner dropped out from the examination of the Second Year. From the subsequent year the college was closed down and the petitioner was not able to appear at the examination for the Second Year due to closure of the college. As the petitioner was not permitted admission in the Second Year of ATD Course, the petitioner approached respondent No.1 authority, namely, Director of ATD Department, Gandhinagar with an application to grant admission in the Second Year so as to enable the petitioner to complete the course. The petitioner pointed out to respondent No.1 authority that the

petitioner may be permitted to be admitted in any other college so as to enable the petitioner to complete the course. This application was made some time in June / July 2007 as accepted by the respondent authority. In Paragraph No.13 of the petition the following averments have been made:

> "13. That the petitioner has also requested to the Education Minister Smt. Anandiben Patel with the reference letter of local MLA, even though no action has been taken by the respondents till date. A copy of Visitors Pass is annexed here and marked as "Annexure D" to this petition."

Not getting any response from the respondent authority, the petitioner was constrained to approach this Court.

(3) Upon issuance of notice affidavit-in-reply dated 16.06.2007 has been filed. Annexed thereto is Government Resolution dated 09.01.2006 whereunder five conditions have been stipulated for re-admission of students who could not complete the course due to family

circumstances, illness and such other reasons. The learned Assistant Government Pleader has relied on condition Nos.2 and 5 to submit that the petitioner has approached the authority after a period of three years and hence, as per Condition No.2 the petitioner is not eligible. That as per Condition No.5 the petitioner is required to state in writing that the petitioner has not pursued any other course during the intervening period, but the petitioner has failed to make such a written statement.

(4) Having heard the learned advocates for the respective parties, it is apparent that as per statement made on behalf of the respondent authority in Paragraph No.6 of the affidavit-in-reply, which reads as under, the Circular dated 09.01.2006 is not strictly applicable in the facts of the case:

> “6. I further say and submit that the petitioner entered in second year of ATD Course and studied for the whole year but he could not able to give examination

> because of his personal problems. The petitioner has already completed his term, therefore he does not require readmission."

Respondent No.1 authority accepts, as a matter of fact, that the petitioner having already completed his term is not required to be granted re-admission. If this be the position there is no question of applying the aforesaid circular to the facts of the case.

(5) However, considering the time gap between the point of time that the petitioner completed his Second Year studies, namely, academic year 2003-2004 and the present academic year, it would be in the interest of the petitioner-student to once again undergo the course of study for the Second Year before taking examination.

(6) In the circumstances, respondent No.1-authority is directed to ensure that the petitioner-student is granted admission in Second Year of ATD Course in a college which

is located at a convenient distance from the residence of the petitioner. To complete the formality, the petitioner is directed to give a written statement to respondent No.1-authority within a period of 07 (seven) days from today that the petitioner has not studied in any other course during the intervening period. Upon receipt of such written statement, respondent No.1 authority shall complete the process of admission within a period of a fortnight from the date of receipt of the written statement. It will be open to the petitioner to approach the appropriate authority, with whom the original documents are stated to be lying for collecting the same.

(7) The petition is allowed accordingly in the aforesaid terms. Rule made absolute. There shall be no order as to costs. Direct service permitted.

Sd/-
[D.A. MEHTA, J]

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Bhavesh*